

## Office of the Secretary, Interior

## § 30.167

### § 30.163 Is consent required for a purchase at probate?

(a) Except as provided in paragraphs (b) and (c) of this section, to purchase an interest in trust or restricted land at probate you must have the consent of:

(1) The heirs or devisees of such interest; and

(2) Any surviving spouse who receives a life estate under 25 U.S.C. 2206(a)(2)(A) or (D).

(b) If you are the Tribe with jurisdiction over the parcel containing the interest, you do not need consent under paragraph (a) of this section if the following four conditions are met:

(1) The interest will pass by intestate succession;

(2) The judge determines based on our records that the decedent's interest at the time of death was less than 5 percent of the entire undivided ownership of the parcel of land;

(3) The heir or surviving spouse was not residing on the property at the time of the decedent's death; and

(4) The heir or surviving spouse is not a member of your Tribe or eligible to become a member.

(c) We may purchase an interest in trust or restricted land on behalf of the Tribe with jurisdiction over the parcel containing the interest. If we do so, we must obtain consent under paragraph (a) of this section, unless the conditions in paragraphs (b)(1) through (3) of this section are met.

[76 FR 7507, Feb. 10, 2011]

### § 30.164 What must I do to purchase at probate?

Any eligible purchaser must submit a written request to OHA to purchase at probate before the decision or order is issued.

### § 30.165 Who will OHA notify of a request to purchase at probate?

OHA will provide notice of a request to purchase at probate as shown in the following table:

| OHA will provide notice to . . .  | By . . .          |
|---|-------------------|
| (a) The heirs or devisees and the Indian tribe with jurisdiction over the interest. | First class mail. |
| (b) The BIA agency with jurisdiction over the interest.                             | First class mail. |

| OHA will provide notice to . . .                                   | By . . .  |
|--|---|
| (c) All parties who have submitted a written request for purchase. | First class mail.   |
| (d) To all other eligible purchasers.                              | Posting written notice in:<br>(1) At least five conspicuous places in the vicinity of the place of the hearing; and<br>(2) One conspicuous place at the agency with jurisdiction over the parcel. |

### § 30.166 What will the notice of the request to purchase at probate include?

The notice under § 30.165 will include:

(a) The type of sale;

(b) The date, time, and place of the sale;

(c) A description of the interest to be sold; and

(d) The appraised market value, determined in accordance with § 30.167(b), of the parcel containing the interest to be sold, a description of the interest to be sold, and an estimate of the market value allocated to the interest being sold.

### § 30.167 How does OHA decide whether to approve a purchase at probate?

(a) OHA will approve a purchase at probate if an eligible purchaser submits a bid in an amount equal to or greater than the market value of the interest.

(1) In cases where the sale of the interest does not require consent under § 30.163(b), OHA will sell the interest to the eligible purchaser.

(2) In all other cases, OHA will sell the interest to the eligible purchaser selected by the applicable heir, devisee, or surviving spouse.

(b) The market value of the interest to be sold at probate must be based on an appraisal that meets the standards in the Uniform Standards for Professional Appraisal Practice (USPAP), or on a valuation method developed by the Secretary pursuant to 25 U.S.C. 2214.

[73 FR 67289, Nov. 13, 2008, as amended at 76 FR 7507, Feb. 10, 2011]